

**REMARKS**

Claims 1 and 3-24 are pending this application. Claims 1, 7 12, and 24 are amended to more particularly point out that which Applicant regards as the invention. Reconsideration of this application based on the amendments to the claims and the arguments presented here is respectfully requested.

**35 U.S.C. § 103 Rejections**

Claims 1, 3-5, 7-10, 12-16, and 18-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over McCrady (US 6,453,168) in view of Negishi (US 5,974,330). Applicant respectfully traverses this rejection.

McCrady or Negishi, alone or in combination, do not teach or suggest all elements of the present claims. McCrady does not possess any functionality that gathers a list of device addresses of wireless accessible devices near a mobile device. The examiner states

The primary reference discloses a method of determining the location of a mobile device using the position of reference nodes which are with fixed (stationary) or mobile. See col. 4, line 52 – col. 5, line 39. However, as discussed in the previous office action, the method used to locate a mobile device in McCrady's reference in the time of arrival method. Further the ranging method is used to determine accurately the position of the mobile devices in the vicinity of the master or the reference device. This is disclosed in col. 8, lines 57-64 where in the ranging method provides the location of the nearby devices which reads on the claim limitation "wireless addresses of the mobile device". Office Action, 12/9/09, p. 2.

However, McCrady states

The TOA message also contains message information indicating the present location of the reference radio. This information can be known from the fact that the reference radio is in a location whose coordinates are known, from GPS signals received and processed by the reference radio, or by employing the technique of the present invention by ranging from beacon-like radios or other mobile radios. Col. 8, lines 57-64.

This passage does not state that a mobile device is gathering device addresses of wireless accessible devices near a mobile device as claimed. This passage states that a TOA message contains information that indicates the location of the reference radio. This information is obtained either from GPS signals or the ranging technique McCrady discloses. No list of

addresses has been gathered. This passage cannot read upon the claim limitation to “gather a list of device addresses of wireless accessible devices near the mobile device, the devices in communication with a network.”

As stated in the previous response to office action, McCrady does not possess any gathering functionality. McCrady discloses determining location using a ranging technique, which is a completely different technique from that method claimed. McCrady discloses a radio that sends an outbound ranging message and receives a reply message and ascertains a location based on time of arrival of the ranging messages. The wireless addresses (e.g., MAC addresses) of the radios are irrelevant to this ranging technique. See col. 4, line 52-col. 5, line 8 and col. 6, line 44 – col. 8, line 3. McCrady simply sends out a radio signal and measures the time of its return. There is no analog in McCrady to the method and structure in the present claims.

Furthermore, McCrady explicitly states a method for “determining the three-dimensional indoor or outdoor position of a compact mobile communication device in the presence of severe multipath interference for using in the aforementioned applications.” Col. 3, lines 48-51. This statement limits the disclosure of McCrady to the method it employs, that is, determining location via ranging messages.

The present invention as claimed describes a method that initially gathers device addresses (not location information) of nearby devices and submits this list to a central authority. The central authority uses this list to determine how these device addresses correlate to database records that contain device addresses of devices within, for example, an office environment. The database records that contain device addresses of devices within the environment define zones within the environment. The result of this correlation is the position of the mobile device.

As demonstrated, McCrady’s method is not congruent with the present claims, which employ quite different methods and structures to accomplish its goals. Accordingly, Applicant respectfully submits McCrady is a non-analogous primary reference.

Negishi fails to cure any of McCrady’s deficiencies. Negishi does not disclose each and every element of the claims as the examiner suggests. The examiner states

The Negishi reference, on the other hand, teaches a method sending a location request to host/location service accessible through the network accessed wirelessly by the mobile device; see col. 1, lines 38-64. Negishi particularly teaches a method of location registration request to a database linked to the base station and correlating the list of addresses/base station IDs with location of base

station/zone information. Negishi further teaches a method of determining the location of the mobile device by utilizing the base station identifier code. See col. 4, lines 34-38. Office Action, 12/9/09, p. 2.

However, col. 1, lines 38-64 describe a process where a terminal (e.g. mobile phone) sends a position registration request a base station and the base station returns its own identifier code. When the terminal makes a phone call, the identifier code is sent from the terminal through the base station and the network to a host station. The host station merely provides a translation from ID code to letter data to make the ID user-friendly to display on the phone. The host station does not provide any location determination function. See col. 4, line 61 – col. 5, line 12.

Nowhere does the terminal in Negishi provide a list of device addresses for which a host could correlate with zone information in a database. Because Negishi does not consider a concept of gathering and using a list of addresses, Negishi cannot not render the present claims obvious.

Furthermore, the combination of McCrady and Negishi is improper. The examiner states

The Negishi and the McCrady references are analogous references that disclose methods of determining locations of wireless device. Therefore it would have been obvious to use this particular feature of location determination method taught by Negishi to be used with the fixed/stationary nodes of McCrady's reference in order to obtain the position of the mobile station in a more simpler and accurate manner than the TOA method disclosed by McCrady. Office Action, 12/9/09, p. 3.

Combining Negishi with McCrady changes the principle operation of McCrady because McCrady is dependent upon the TOA ranging technique. Although both references disclose methods for determining location, the methods disclosed are quite disparate and incompatible. This is why they are non-analogous art to the present claims, and are not combinable with each other.

McCrady's method determines location by measuring the timing of inbound and outbound messages between multiple radios and then employing trilateration. See col. 7, lines 14 – 40. Negishi displays the current phone network it is located in by looking it up in a database as demonstrated above. If a device in McCrady's environment could merely look up its location, there is no use for determining location by the disclosed ranging method. Moreover,

Combining Negishi's method makes McCrady's method less accurate. Or if somehow combinable, such a combination would utilize two different distances for a particular item's location. Applicant respectfully submits that McCrady's and Negishi's methods are mutually exclusive. As such, a combination of the references is improper.

Claim 19 - 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over McCrady and Negishi in view of Parry (US 2002/0164997). Applicant respectfully traverses this rejection.

As argued above, McCrady and Negishi do not disclose each and every element of the claims. Even if the combination were proper, Parry does not cure the deficiencies of the McCrady-Negishi combination. Accordingly, Applicant respectfully requests withdrawal of this rejection.

BERRY &amp; ASSOCIATES P.C.

By: /Shawn Diedtrich/

Shawn Diedtrich  
Registration No. 58,176  
480.704.4615 (direct)